FIRST AMENDMENT

Lefemine (DBA Columbia Christians for Life) v. Wideman
--- U.S.--- (2012)
Decided November 5, 2012

FACTS: On November 3, 2005, Lefemine and other members of Columbia Christians for Life (CCL) were demonstrating in Greenwood County, South Carolina. An officer arrived in response to a complaint about graphic signs that portrayed aborted fetuses. The officer informed Lefemine that if he did not discard the signs, he would be cited for breaching the peace. Although Lefemine object, he finally disbanded the protest. The following year, he sent a letter (through counsel) to the Sheriff, stating that they intended to return to the same location and that if they were interfered with, they would seek legal remedy. The Chief Deputy responded to the letter, stating that if the group arrived and took the same actions, they would again face possible criminal charges. "Out of fear of those sanctions, the group chose not to protest in the county for the next two years."

In 2008, Lefemine filed suit under 42 U.S.C. §1983 against several deputies, arguing violations of the First Amendment. He sought nominal damages, a declaratory judgment, a permanent injunction and attorney's fees. The District Court agreed that the prior actions of the Sheriff's Office did violate his rights and enjoined the agency from further action against CCL, should they choose to protest in the future. The court denied the request for nominal damages and attorney's fees, however.

The Fourth Circuit Court of Appeals upheld the decision, holding that Lefemine and CCL were not prevailing parties under 42 U.S.C. §1988, under which attorney's fees are awarded. Lefemine requested certiorari and the U.S. Supreme Court granted review.

ISSUE: Is an award of attorney's fees warranted when a case is resolved by permanent injunction?

HOLDING: Yes

DISCUSSION: The Court reviewed 42 U.S.C. §1988, the Civil Rights Attorney's Fees Awards Act of 1976, in which the "prevailing party" is allowed to claim attorney's fees in addition to any judgment. The Court noted that a plaintiff prevails "when actual relief on the merits of his claim materially alters the legal relationship between the parties by modifying the defendant's behavior in a way that directly benefits the

plaintiff."[1] In the past, the Court had "held that an injunction or declaratory judgment like a damages award, will usually satisfy that test."[2] Under that standard, Lefemine and CCL were certain prevailing parties as his lawsuit successfully removed the threat of criminal sanctions for a permitted activity, and changed the relationship between the Sheriff's Office and the prospective protestors. Absent special circumstances, none of which were briefed in the case, attorney's fees were justified.[3]

The Court vacated the decision of the Fourth Circuit and remanded the case.

FULL TEXT OF OPINION: **http://www.supremecourt.gov/opinions/12pdf/12-168_9o6b.pdf**

[1] Farrar v. Hobby, 506 U.S. 103 (1992).
[2] Rhodes v Stewart, 488 U.S. 1 (1988).
[3] Hensley v. Eckerhart, 461 U.S. 424 (1983).